

Introduction: Constitutionalism and the evolution of democracy in India

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Comparative Studies of South Asia, Africa and the Middle East

The papers in this special issue make a significant intervention into debates about the evolution of democracy in South Asia by prompting us to rethink the role of constitutionalism in this process.¹ They focus on three constitutional moments in early twentieth-century Indian history: the inauguration of dyarchy under the 1919 Government of India Act, the application of provincial autonomy under the 1935 Government of India Act and the preparation of the draft roll for India's first general election, held shortly after the inauguration of the republican constitution in 1950. They show that, far from being the product of clear political settlement, these moments were shaped by historical contingency, and often conflict. In so doing, the papers offer new ways of thinking about state institutions in this period, not as monolithic forces located outside society, but as complex sites of interaction that were continuously being reshaped both from within and without the official ranks of government administration. Together, they suggest that constitutionalism was a far more dynamic force in the shaping of India's transition to democracy than has been recognised hitherto.

Since the 1990s, scholars of South Asia have played a formative role in discussions about how best to theorise the history of liberal democracy in the subcontinent and

¹ These papers grew out of a two workshops held at SOAS, University of London and at a workshop sponsored by the Institute of Asia-Pacific Studies at the University of Nottingham, between July 2013 and April 2014. The contributors to this special issue would like to extend much gratitude to colleagues who participated in these events and provided much thoughtful feedback and insight, as well as scholarly support to this project, particularly Rohit De, William Gould, Uditi Sen and Taylor Sherman.

beyond.² Their work has highlighted the political and intellectual limitations of universalising western experiences of democratisation by bringing to light the particular genealogies of post-colonial democracy in South Asia, many of which lie beyond the colonial state. We now recognise that, in the imperial context, critical markers of democratic politics, and particularly the notion of the rights-bearing liberal individual, emerged within the supposedly 'private' sphere of social relationships, rather than the 'public' domain of formal state politics.³

At the same time, the state and the domain of formal politics in the late colonial period remains considerably under theorised. From 1919 onwards, devolution and the introduction of limited forms of representative government produced a peculiarly hybrid state that gave rise to far more interventionist and autocratic forms of imperial governance even as it became more Indianised. The papers in this special issue show how the drive to reshape state structures and build new bureaucratic procedures in the face of the 1919, 1935 and 1950 Acts were also important and fertile grounds for the production of democratic practices in South Asia.

Through their emphasis on different historical moments and processes, the papers trace the emergence and evolution of democratic sovereignty in India. Legg examines the 1919 Government of India Act as a rescaling of Indian sovereignty, from the all-Indian to the local level, through the 'transfer' of certain subjects of governance. This process was informed by wider imperial and international debates about constitutionalism but also delimited by colonial autocracy and nationalist critique. Elangovan's study of the 1935 Government of India Act traces B.N. Rau's endeavour to establish the Act's constitutional paramountcy in order to devolve full sovereignty to provincial governments, while Shani shows how the preparation of the rolls for India's first election under universal franchise realised the sovereignty of the Indian people in concrete, bureaucratic terms. In so doing they also reveal an

² Chatterjee, *The nation and its fragments; The politics of the governed*; Mehta, *Liberalism and empire*; Sinha, *Specters of Mother India*; Rao, *The caste question*; Sturman, *The government of social life*.

³ Sarkar, "A prehistory of rights"; Sinha, *Specters of Mother India*; Sturman, *The government of social life*.

important spatial dimension of constitutionalism. Legg highlights the centrality of the nominalist power of naming for the construction of dyarchy's 'scalar sovereignty', as the 1919 Act redefined local, national and imperial space. Elangovan traces some of the legacies of these developments, showing how the implementation of the 1935 Act rested on the reorganisation, but by no means the resolution of the relationship between spaces of local/provincial, national and even imperial power. Shani's paper shows how the preparation of India's first electoral roll produced not only a new bureaucratic imaginary of the relationship between the various territories that now constituted the Indian nation but also institutionalised this relationship through bureaucratic practice. Finally, the papers pose provocative questions about how we understand constitutionalism and its relationship with democracy. 'How should we write constitutional history?' asks Legg. This becomes all the more pressing as Elangovan maps out the productive capacities of a South Asian constitutionalism that is quite distinct from imperial tools of governance and anti-colonial forms of extra-constitutionality. We are then drawn back to a study of constitutionalism in practice, as Shani shows how the making of universal franchise established "we the people" as the embodied and fully enumerated subjects of the constitution.

Together, these papers use South Asian examples to pose questions about the history of democratisation that have relevance beyond the subcontinent. In contemporary political and scholarly discussions we tend to think of the democratic impulse as originating in the people. For many, popular agitation is one, if not the most, important propellant for democratisation. Yet these papers show that reimagining state institutions was also critical for the emergence of democratic practices in South Asia, and that people, rather than abstract forces, played a critical role in bringing about this re-imagination. We suggest that these institutional transformations must be studied alongside popular agitation and activities beyond the state if we are to develop a more truly global history of democratisation.

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